

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 19, 2005

**SENATE BILL**

**No. 1086**

**Introduced by Senators Migden and Chesbro**

February 22, 2005

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An act to amend Section 6217 of the Public Resources Code , *and to amend Section 4 of Chapter 138 of the Statutes of 1964, First Extraordinary Session*, relating to the State Lands Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1086, as amended, Migden. State Lands Commission.

~~Under~~

(1) *Under* existing law, with specified exceptions, revenue, money, and remittances received by the State Lands Commission are required to be applied to specified obligations in a prescribed order. Existing law provides for these provisions to become inoperative on July 1, 2006, and to be repealed January 1, 2007.

This bill would extend the inoperative date of these provisions to July 1, 2011, and the repeal date to January 1, 2012.

Existing law provides that as of July 1, 2006, with specified exceptions, all revenue, money, and remittances received by the State Lands Commission are to be deposited in the General Fund and made available each fiscal year for specified purposes.

This bill would change that date to July 1, 2012.

(2) *Existing law provides for the distribution of oil and gas revenues from tide and submerged lands granted to the City of Long Beach between the city and the state.*

*This bill would prohibit the city of Long Beach from retaining out of oil revenue any money for deposit in a reserve fund to be used for future tidelands oil administrative costs or future costs related to the*

*extraction or disposition of oil or other hydrocarbons, including but not limited to, future costs for the plugging and abandonment of wells and removal of production facilities, even if the future costs are certain to occur and can reasonably be estimated.*

*The bill would require the City of Long Beach, on or before March 1, 2006, to pay to the State Lands Commission as remaining oil revenue from the Long Beach tidelands free from the public trust for commerce, navigation, and fisheries, all money, including both principal and interest, in a specified abandonment reserve fund that the city created in 1999.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6217 of the Public Resources Code, as  
2 amended by Section 3 of Chapter 326 of the Statutes of 1998, is  
3 amended to read:

4 6217. With the exception of revenue derived from state  
5 school lands and from sources described in Sections 6217.6,  
6 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and  
7 Section 6406 (insofar as the proceeds are from property that has  
8 been distributed or escheated to the state in connection with  
9 unclaimed estates of deceased persons), the commission shall  
10 deposit in the State Treasury all revenue, money, and remittances  
11 received by the commission under this division, and under  
12 Chapter 138 of the Statutes of 1964, First Extraordinary Session,  
13 and those funds shall be applied to the following obligations in  
14 the following order of priority:

15 (a) To the General Fund, the revenue necessary to provide in  
16 any fiscal year for the following:

17 (1) Payment of refunds, authorized by the commission, out of  
18 appropriations made for that purpose by the Legislature.

19 (2) Payment of expenditures of the commission as provided in  
20 the annual Budget Act enacted by the Legislature.

21 (3) Payments to cities and counties of the amounts specified in  
22 Section 6817 for the purposes specified in that section, and the  
23 revenues so deposited are appropriated for that purpose.

24 (4) Payments to cities and counties of the amounts agreed to  
25 pursuant to Section 6875.

(b) To the California Housing Trust Fund, each fiscal year, the amount of two million dollars (\$2,000,000).

(c) After meeting the obligations in subdivisions (a) and (b), the Controller shall transfer the balance of all such revenue, money, and remittances received by the commission pursuant to this section in each fiscal year to the Resources Trust Fund.

The money in the Resources Trust Fund shall be collected for the purposes of, and held in trust for, preserving and protecting the natural and recreational resources of the state and, for this purpose, the Controller shall annually transfer the following sums from the Resources Trust Fund to the following accounts and funds in the following order of priority:

(1) Eight million dollars (\$8,000,000) to the Salmon and Steelhead Trout Restoration Account in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for the recovery of coho salmon, other species of salmon, and anadromous trout pursuant to Section 6217.1 of this code and Chapter 8 (commencing with Section 2760) of Division 3 of the Fish and Game Code.

(2) Two million two hundred thousand dollars (\$2,200,000) to the Marine Life and Marine Reserve Management Account, which is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for marine life management pursuant to Section 6217.2.

(3) Ten million dollars (\$10,000,000) to the State Parks System Deferred Maintenance Account, which is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Parks and Recreation for deferred maintenance expenses.

(4) The remainder to the Natural Resources Infrastructure Fund which is an account in the Resources Trust Fund. The money in the Natural Resources Infrastructure Fund shall be available for expenditure, upon appropriation by the Legislature, for the purposes of preserving and protecting the natural and recreational resources of the state. Priority for the use of the money in the Natural Resources Infrastructure Fund shall be given to the following:

1 (A) For expenditure by the Department of Fish and Game,  
2 upon appropriation by the Legislature, for environmental review  
3 and monitoring, consultation with lead agencies, recommending  
4 mitigation measures, and enforcement related activities pursuant  
5 to Division 13 (commencing with Section 21000).

6 (B) For expenditure, upon appropriation by the Legislature, for  
7 the purposes of land acquisition in Orange County and San Diego  
8 County pursuant to Chapter 10 (commencing with Section 2800)  
9 of Division 3 of the Fish and Game Code.

10 (C) For expenditure to meet the requirements of Section 2796  
11 of the Fish and Game Code that are not met pursuant to Section  
12 2795 of the Fish and Game Code, upon appropriation by the  
13 Legislature.

14 (D) For expenditure for nonpoint source pollution control  
15 programs of the State Water Resources Control Board and the  
16 California Coastal Commission, upon appropriation by the  
17 Legislature.

18 The Controller shall transfer any unencumbered balances  
19 remaining in the Salmon and Steelhead Trout Restoration  
20 Account, the Marine Life and Marine Reserve Management  
21 Account, the State Parks Deferred Maintenance Account, and the  
22 Natural Resources Infrastructure Fund on June 30 of each year to  
23 the General Fund.

24 This section shall become inoperative on July 1, 2011, and, as  
25 of January 1, 2012, is repealed, unless a later enacted statute,  
26 which becomes effective on or before January 1, 2012, deletes or  
27 extends the dates on which it becomes inoperative and is  
28 repealed.

29 SEC. 2. Section 6217 of the Public Resources Code, as  
30 amended by Section 24 of Chapter 240 of the Statutes of 2003, is  
31 amended to read:

32 6217. (a) With the exception of revenue derived from state  
33 school lands and from sources described in Sections 6217.6,  
34 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and  
35 Section 6404 (insofar as the proceeds are from property that has  
36 been distributed or escheated to the state in connection with  
37 unclaimed estates of deceased persons), the commission shall  
38 deposit all revenue, money, and remittances received by the  
39 commission under this division, and under Chapter 138 of the  
40 Statutes of 1964, First Extraordinary Session, in the General

1 Fund. Out of those funds deposited in the General Fund,  
2 sufficient moneys shall be made available each fiscal year for the  
3 following purposes:

4 (1) Payment of refunds, authorized by the commission, out of  
5 appropriations made for that purpose.

6 (2) Payment of expenditures of the commission as provided in  
7 the annual Budget Act.

8 (3) Payments to cities and counties of the amounts specified in  
9 Section 6817 for the purposes specified in that section, out of  
10 appropriations made for that purpose.

11 (4) Payments to cities and counties of the amounts agreed to  
12 pursuant to Section 6875, out of appropriations made for that  
13 purpose.

14 (b) This section shall become operative on July 1, 2012.

15 *SEC. 3. Section 4 of Chapter 138 of the Statutes of 1964,*  
16 *First Extraordinary Session, as amended by Section 1 of Chapter*  
17 *246 of the Statutes of 1982, is amended to read:*

18 Sec. 4. (a) Until and including the last day of the calendar  
19 month in which this act becomes effective, the ~~city~~ *City of Long*  
20 *Beach* shall account for and pay over to the ~~State of California~~  
21 *state* oil revenue and dry gas revenue in accordance with all the  
22 provisions of Chapter 29; *of the* Statutes of 1956, First  
23 Extraordinary Session, as amended by Chapter 1398; *of the*  
24 Statutes of 1963.

25 (b) Commencing on the first day of the calendar month  
26 following the date on which this act becomes effective, the City  
27 of Long Beach shall account for and pay over monthly to the  
28 ~~State of California~~ *state* oil revenue and dry gas revenue free  
29 from the public trust for navigation, commerce, and fisheries and  
30 from ~~such~~ *the* uses, trusts, conditions and restrictions ~~as that~~ were  
31 imposed by ~~said~~ *the* acts of 1911, 1925, and 1935, and the city  
32 shall retain, subject to the provisions of this act, the amounts or  
33 percentages of oil revenue hereinafter provided.

34 (c) The City of Long Beach shall account for and pay over  
35 monthly to the State Lands Commission for and on behalf of the  
36 ~~State of California~~ *state* all dry gas revenue thereafter received  
37 by the city.

38 (d) The ~~city~~ *City of Long Beach* shall retain out of oil revenue  
39 each month an amount equal to all subsidence costs thereafter  
40 expended by the city and an amount equal to the money

1 thereafter expended by the city in administering oil and gas  
2 operations on the Long Beach tidelands ~~to the extent, if any,~~  
3 ~~such that the amount is not deductible under subdivision (b) of~~  
4 ~~Section 1(b) hereof), and. The city shall not retain out of oil~~  
5 ~~revenue any money for deposit in a reserve fund to be used for~~  
6 ~~future tidelands oil field administrative costs or future costs~~  
7 ~~related to the extraction or disposition of oil or other~~  
8 ~~hydrocarbons, including, but not limited to, future costs for the~~  
9 ~~plugging and abandonment of wells and removal of production~~  
10 ~~facilities, even if the future costs are certain to occur and can~~  
11 ~~reasonably be estimated. The city shall pay out of oil revenue to~~  
12 ~~the State Lands Commission for and on behalf of the State of~~  
13 ~~California state each month an amount equal to the money~~  
14 ~~thereafter expended by the State state, as determined by the~~  
15 ~~Director of Finance, in administering this act and Chapter 29; of~~  
16 ~~the Statutes of 1956, First Extraordinary Session, including the~~  
17 ~~costs of the audits by the Auditor General pursuant to Section 10~~  
18 ~~hereof, insofar as such that amount pertains to the Long Beach~~  
19 ~~tidelands. The oil revenue remaining after deducting and paying~~  
20 ~~said these amounts shall hereafter be referred to as “remaining oil~~  
21 ~~revenue.”~~

22 (e) All advance payments attributable to the undeveloped  
23 portion of the Long Beach tidelands shall be divided equally  
24 between the City of Long Beach and the ~~State of California~~ state.  
25 The City of Long Beach shall account for and pay over monthly  
26 to the State Lands Commission for and on behalf of the ~~State of~~  
27 ~~California~~ state all other remaining oil revenue, except for the  
28 percentages or amounts of remaining oil revenue specified in the  
29 following schedule, which percentages or amounts shall be  
30 retained by the City of Long Beach:

- 31 (1) Until and including December 31, 1967, 50 percent.  
32 (2) During the calendar year 1968, 45 percent or the total  
33 amount of nine million dollars (\$9,000,000) during ~~said that~~  
34 year, whichever is less.  
35 (3) During the calendar year 1969, 40 percent or the total  
36 amount of nine million dollars (\$9,000,000) during ~~said that~~  
37 year, whichever is less.  
38 (4) During the calendar year 1970, 35 percent or the total  
39 amount of nine million dollars (\$9,000,000) during ~~said that~~  
40 year, whichever is less.

1 (5) During the calendar year 1971, 30 percent or the total  
2 amount of nine million dollars (\$9,000,000) during ~~said that~~  
3 year, whichever is less.

4 (6) During the calendar year 1972, 25 percent or the total  
5 amount of nine million dollars (\$9,000,000) during ~~said that~~  
6 year, whichever is less.

7 (7) During the calendar year 1973, and during each calendar  
8 year thereafter, to and including 1979, 20 percent or the total  
9 amount of nine million dollars (\$9,000,000) during each ~~said~~  
10 year, whichever is less.

11 (8) During the calendar year 1980, and during each calendar  
12 year thereafter, to and including 1982, 20 percent or the total  
13 amount of eight million dollars (\$8,000,000) during each ~~said~~  
14 year, whichever is less.

15 (9) During the calendar year 1983, 20 percent or the total  
16 amount of seven million dollars (\$7,000,000) during ~~said that~~  
17 year, whichever is less.

18 (10) During the calendar year 1984, 20 percent or the total  
19 amount of six million dollars (\$6,000,000) during ~~said that~~ year,  
20 whichever is less.

21 (11) During the calendar year 1985, 20 percent or the total  
22 amount of five million dollars (\$5,000,000) during ~~said that~~ year,  
23 whichever is less.

24 (12) During the calendar year 1986, 20 percent or the total  
25 amount of four million five hundred thousand dollars  
26 (\$4,500,000) during ~~said that~~ year, whichever is less.

27 (13) During the calendar year 1987, 20 percent or the total  
28 amount of three million four hundred thousand dollars  
29 (\$3,400,000) during ~~said that~~ year, whichever is less.

30 (14) During the calendar year 1988, and each calendar year  
31 thereafter, the total sum of one million dollars (\$1,000,000)  
32 during each ~~said~~ year.

33 ~~In the event~~ If the execution of the contractors' agreement is  
34 delayed beyond December 31, 1964, the city shall retain 50  
35 percent of remaining oil revenue, as provided in ~~subdivision~~  
36 *paragraph* (1) of the above schedule, until and including the last  
37 day of the third calendar year following the calendar year in  
38 which the contractors' agreement is executed, and the amounts or  
39 percentages of remaining oil revenues to be retained by the city  
40 as specified in ~~subdivisions~~ *paragraphs* (2) to (14), inclusive, of

1 the above schedule shall be deferred accordingly. ~~In the event If~~  
2 the total aggregate amount of remaining oil revenue (including  
3 advance payments) retained by the city on and after the effective  
4 date of this act should reach the sum of two hundred thirty-eight  
5 million dollars (\$238,000,000) at any date prior to January 1,  
6 1988, the city shall retain during the next calendar year following  
7 the date at which ~~such~~ *that* total aggregate sum is reached, and  
8 during each calendar year thereafter, the total sum of one million  
9 dollars (\$1,000,000) out of remaining oil revenue during each  
10 ~~said~~ year, in lieu of any amounts ~~which~~ *that* might otherwise be  
11 specified in the above schedule in respect to ~~said~~ *those* years.

12 (f) The contractors' agreement shall include a provision for a  
13 "reserve for subsidence contingencies." ~~Such~~ *This* reserve shall  
14 accumulate at the rate of two million dollars (\$2,000,000) a year,  
15 exclusive of interest thereon, commencing from and after the first  
16 day of the second month following termination of the right to  
17 receive any advance payment from the field contractor and shall  
18 continue for a period of 20 years thereafter. ~~Said~~ *The* amounts so  
19 accumulated, but not the interest thereon, shall be treated as a  
20 cost of oil production under the contractors' agreement and shall  
21 be deductible in computing oil revenue.

22 ~~Said~~

23 *The* amounts so accumulated, together with interest, shall be  
24 impounded by the city in a separate fund and shall be invested in  
25 bond issued by the ~~State of California~~ *state* or if ~~such~~ *those* bonds  
26 are unavailable, then in securities of the United States. ~~Said the~~  
27 fund shall be available to indemnify and hold harmless the City  
28 of Long Beach, the ~~State of California~~ *state*, and any and all  
29 contractors under the contractors' agreement from claims,  
30 judgments, and costs of defense, arising from subsidence alleged  
31 to have occurred as a result of operations under ~~said the~~  
32 agreement. ~~Said~~ *The* fund may also be used for the purpose of  
33 paying subsidence costs or for conducting repressuring  
34 operations in the event there is no oil revenue or the oil revenue  
35 is insufficient to pay ~~such~~ *these* costs.

36 ~~Said~~

37 *The* fund shall remain impounded until ~~such the time as that~~  
38 the city and ~~State the state~~ shall jointly determine that there is no  
39 longer any hazard of ~~such~~ *those* claims or judgments or that there  
40 is no potential danger of subsidence, whichever is later; ~~provided,~~



1 ~~that~~. However, if the city and ~~State~~ *the state* are unable to agree  
2 upon ~~such a~~ *that* joint determination, the State Lands  
3 Commission may make application to a court of competent  
4 jurisdiction for determination by the court as to whether it is  
5 necessary to continue the impoundment of ~~said~~ *the* fund.

6 Upon termination of ~~such~~ *that* impoundment, the money so  
7 impounded, including all interest and earnings thereof, shall be  
8 distributed to the city (in addition to the amounts specified under  
9 subdivision (e) ~~hereof~~), and the ~~State~~ *state*, as follows: an amount  
10 equal to 50 percent of all subsidence costs approved and  
11 disbursed by the city from the effective date of this act to and  
12 including December 31, 1968, shall be distributed and paid to the  
13 city; and the balance shall be paid and distributed to the ~~State of~~  
14 ~~California~~ *state*. Nothing herein contained shall constitute a  
15 waiver of sovereign immunity by the ~~State of California~~ *state*;  
16 nor shall anything herein contained affect in any manner the  
17 rights and obligations of the City of Long Beach, the ~~State of~~  
18 ~~California~~ *state*, or the contractors under the contractors'  
19 agreement, or any of them, as against any other person or  
20 persons, relative to claims, judgments, or liability arising from  
21 subsidence of the land surface.

22 *SEC. 4. On or before March 1, 2006, the City of Long Beach*  
23 *shall pay to the State Lands Commission as remaining oil*  
24 *revenue from the Long Beach tidelands free from the public trust*  
25 *for commerce, navigation, and fisheries, all money, including*  
26 *both principal and interest, in the abandonment reserve fund that*  
27 *the city created in 1999 and that was the subject of the litigation*  
28 *in State of California ex rel. California State Lands Commission*  
29 *v. City of Long Beach (2005) 125 Cal.App.4th 767.*